DIVORCE WITH CHILDREN General Instructions

PLEASE READ FIRST: It is very important for you to know that when you sign a Court document, you may be helping or hurting your case. Before you sign any Court document or get involved with a Court case, it is important that you see a lawyer to make sure you are doing the right thing. Although there are risks in self-representation, should you choose to represent yourself you must be prepared. Although these forms have been prepared to help you represent yourself, you should know that certain Courts have their own procedures and may not accept every form. You may represent yourself in Court, but you will have to abide by the appropriate Court rules, Indiana Rules of Evidence, Indiana

advice about your case, you should get in touch with a lawyer.

Rules of Trial Procedure, and any local rules. For additional information, you may refer to the Indiana Self-Service Legal Center that can be found at www.in.gov/judiciary. For legal



PLEASE think twice before you represent yourself in a divorce when children are involved. The issues involving children will continue for many years, and the issues are complicated. You are strongly encouraged to get advice from a lawyer.

Step 1: Who should use this packet

You should use this form if you want to divorce your spouse **AND**:

- 1. You have lived in Indiana for at least the past six months and in your current county for at least the past three months;
- 2. You have children with your spouse;
- 3. You are not currently pregnant with your spouse's child, or your spouse is not pregnant with your child;
- 4. Neither you nor your spouse is currently in the military; and
- 5. Neither you nor your spouse is able to obtain a lawyer.

If either you or your spouse is in the military, there are special issues in your case that these forms do not address, and you are encouraged to seek legal advice from a lawyer. If you are currently pregnant, or if your spouse is pregnant, there are special issues in your case that these forms do not address, and you are encouraged to seek legal advice from a lawyer.

Due to the complex legal knowledge needed to properly handle a divorce case and present evidence iCourt, this packet might not be useful to people who want to dispute certain issues of their divorce. You are strongly encouraged to seek advice from a lawyer. Your financial status might make you eligible for free legal advice. Please contact the Indiana Pro Bono Commission at 317-639-5465, 800-266-2581, probono@inbar.org, or http://www.in.gov/judiciary/probono/about.html

If you are seeking a Protective Order, you may obtain a form from the Clerk of the Court

or obtain it from the Indiana Supreme Court's website at http://www.in.gov/judiciary/forms/po.html. A Petition for a Protective Order must be filed as a separate case from this dissolution matter.

Step 2: What this packet contains

This packet contains forms for you to fill out and take to the Clerk of the Court. There are twelve forms in this packet, but you may not need all of the forms. This packet also contains instructions for each form. You MUST read every instruction on each form. Consult your local Court Rules for any additional forms required in your county.

Step 3: Which forms to fill out

Read these instructions to decide which forms you need. As you read through the table below, pull out the forms that apply to you and set them aside to fill out later.

Form	Who should use each form
1. Appearance	Everyone
Verified Petition for Dissolution of Marriage and for Provisional Orders	Everyone
3. Notice of Provisional Hearing	Everyone
4. Verified Motion for Fee Waiver and Order on Fee Waiver	ONLY those who cannot afford to pay the divorce filing fee. The judge will determine if you qualify for the fee waiver.
5. Child Support Worksheet	Everyone
6. Temporary Order	Everyone
7. Verified Waiver of Final Hearing	Those who have reached an agreement with their spouses about all terms of the divorce.
8. Settlement Agreement and Decree of Dissolution of Marriage	Those who have reached an agreement with their spouses about all terms of the divorce.
9. Motion for Final Hearing	Those who have NOT reached an agreement with their spouses about all terms of the divorce.
10. Notice of Final Hearing	Those who have NOT reached an agreement with their spouses about all terms of the divorce.
11. Decree of Dissolution of Marriage	Those who have NOT reached an agreement with their spouses about all terms of the divorce.
12. Summons	Everyone

Consult your local Court Rules for any additional forms required in your county.

Step 4: Select and Prepare the Appropriate Forms

A. Select #1 OR #2 below

1) If you and the other parent have reached an agreement as to all the terms of the divorce, you should fill out and file:

Form #1 Appearance form;

Form #2 Verified Petition for Dissolution of Marriage and for Provisional Orders;

Form #3 Notice of Provisional Hearing;

Form #5 Child Support Worksheet;

Form #6 Temporary Order;

Form #7 Verified Waiver of Final Hearing;

Form #8 Settlement Agreement and Decree of Dissolution of Marriage; AND

Form #12 Summons.

OR

2)If you and the other parent have **NOT** reached an agreement as to all the terms of the divorce, you should fill out and file:

Form #1 Appearance form;

Form #2 Verified Petition for Dissolution of Marriage and for Provisional Orders;

Form #3 Notice of Provisional Hearing;

Form #5 Child Support Worksheet;

Form #6 Temporary Order;

Form # 9 Motion for Final Hearing;

Form # 10 Notice of Final Hearing;

Form #11 Decree of Dissolution of Marriage; AND

Form #12 Summons.

B. If you cannot afford to pay the divorce filing fee, regardless of whether you filled out the Forms on Part A or Part B above, you should also fill out and file:

Form #4 Verified Motion for Fee Waiver and Order on Fee Waiver

C. Fill out your Forms

- 1. Set aside the forms that you need to fill out, as described in step 3.
- 2. Follow the instructions attached to each form to fill it out. You will need to type or <u>print</u> neatly in black or blue ink. Do not print on the back or sides of the forms, print only in the blanks provided.
- 3. Make three copies each of these four forms:
 - #1 Appearance
 - #2 Verified Petition for Dissolution of Marriage and for Provisional Orders
 - #3 Notice of Provisional Hearing
 - #4 Verified Motion for Fee Waiver and Order on Fee Waiver (Only if you filled out this form)
 - #12 Summons

Step 5: File your Completed Forms

- 1. Take the originals and copies of the above forms along with two (2) self-addressed stamped envelopes to the Clerk of the Court in the county where you (or your spouse) have lived for at least the last three months. Tell the Clerk you want to file the papers. In some counties, the Court will prepare the Summons which is the paper the Court uses to notify your spouse that you have filed for a divorce. You may need to provide a physical description or date of birth for the Clerk to issue the Summons. The Clerk will provide the case number and process the forms. The Clerk will stamp the forms with a filing date and will send you a notice of when the provisional hearing will be. You must wait at least 60 days after you file the papers to finish your divorce. The waiting period is required by Indiana law.
- 2. Call the Court's office seven (7) days after you file the papers if you haven't received notice of the date of your provisional hearing.
- 3. Go to the Provisional Hearing when it is scheduled. Take these forms with you:

Form #5 Child Support Worksheet,

Form #6 Provisional Order, AND

Any other forms required by your local rules such as a financial declaration.

Step 6: Provisional Hearing What happens at the provisional hearing?

- 1. A provisional hearing is a pre-trial proceeding heard before the trial date where parties seek temporary orders such as child custody, child support, and parenting time. Each party may present evidence and testimony in his or her behalf.
- 2. The judge will issue orders at the provisional hearing that will remain in effect until the Final Decree of Dissolution or until modified upon request before the final decree..

Step 7: Finish your divorce:

Select "A" OR "B" below.

- **A.** If you and the other parent have reached an agreement as to all the terms of the divorce, including property division, division of debt, custody, support, and parenting time (visitation), and if your spouse will sign the forms:
 - Make four copies of these completed and signed forms:
 Form #7 Waiver of Final Hearing; AND
 Form #8 Agreed Entry of Decree of Dissolution of Marriage.
 - 2. Take the originals and copies of the above forms along with a self-addressed stamped envelope for you and one for your spouse to the Clerk of the Court . The Clerk will file-stamp the forms.

PLEASE NOTE: You must wait at least 60 (sixty) days after you filed the initial papers for the judge to sign your divorce. The waiting period is required by Indiana law.

- 3. The Judge will sign the Agreed Entry and you will get divorced without a hearing. You will receive a copy of the Agreed Entry in the mail once the Judge has signed it.
- 4. Most Indiana Counties now require a divorce or parenting class for divorcing couples with minor children. You should check to see if your county requires this.
- 5. You are divorced when the judge signs the Decree of Dissolution.

OR

- **B.** If you and the other parent have **NOT** reached an agreement as to all the terms of the divorce, including property division, division of debts, custody, support, and parenting time, or if your spouse will NOT sign the forms:
 - 1. Make four copies of these completed and signed forms:

Form # 9 Motion for Final Hearing; AND

Form # 10 Notice of Final Hearing.

2. Take the originals and copies of the above forms along with a self-addressed stamped envelope for you and one for your spouse to the Clerk of the Court. The Clerk will file-stamp the forms.

PLEASE NOTE: You must wait at least 60 (sixty) days after you filed the initial papers to finish your divorce. The waiting period is required by Indiana law.

- 3. Mail a copy of the Motion for Final Hearing to your spouse on the same day you file it with the Clerk.
- 4. You and your spouse should each receive a copy of the Notice for Final Hearing back in the mail. This will tell you the date of your final hearing.
- 5. Follow the instructions for the Final Hearing.

Step 8: The Final Hearing:

1. Take the following completed forms with you to the scheduled hearing:

Form #5 Child Support Worksheet,

Form #11 Decree of Dissolution of Marriage, AND

Any other forms required by your local rules such as a financial declaration or income withholding order.

- 2. Tell the Judge you want to present evidence, then tell the Judge the following:
 - a. Your name & your spouse's name,
 - b. You (or your spouse) lived in your current county for the last three months and in Indiana for the six months before you filed the petition,
 - c. Your address,
 - d. Your spouse's address,
 - e. Your date of marriage,
 - f. Your date of separation,
 - g. The Children's names, dates of birth, and social security numbers,
 - h. The party who has physical custody of the children,

- i. The party who is seeking custody,
- j. The income information for you and your spouse,
- k. That there has been an "irretrievable breakdown of the marriage,"
- 1. That neither you nor your spouse is in the military,
- m. That you are not pregnant/that your spouse is not pregnant,
- n. Whether you or your spouse wishes to change to a former name,
- o. If you and your spouse have agreed on any issues, tell the Court what you have agreed upon,
- p. Be prepared to offer evidence relating to:
 - 1) debt information, 2) insurance information, 3) your income
- q. For any issues you have NOT agreed upon, tell the Court how YOU would like the issue resolved. Make sure you give the Judge good reasons why you would like the issue resolved your way.
- 3. You get to talk first because you are the one who filed for the divorce. Then your spouse will get a chance to talk. Do not interrupt the Judge or your spouse.
- 4. Give the Judge your proposed *Decree of Dissolution* before you leave.
- 5. Sometimes, the Judge will make his or her decision right away. Sometimes you will have to wait for the decision to come in the mail. The Judge might sign the decree you provided or issue one of his or her own.
- 6. If it has been several weeks since the final hearing and you have still not received your decree in the mail, call the Court and ask for a copy.

You are divorced when the Judge signs the Decree of Dissolution .



You should not get re-married until you have a copy of the Decree of Dissolution signed by the Judge.

Instructions for filling out the *Appearance* **(Form #1)**

The instructions below correspond to the line numbers on the forms.

Check the l	box in the	first c	olumn a.	s you	compl	ete i	each i	line.

Line #	Instructions
1	Print the name of the county where you are filing the divorce. In some counties, you may choose whether you want to file in Circuit Court or Superior Court. In other counties, you do not have a choice. This is determined by Local Rule. Consult your local Court Rules for any special forms required in
3	Print the name of the county; leave the case number blank because the Clerk will assign a number.
7	Print your full name as Petitioner.
12	Print your spouse's full name as Respondent.
17	Print your full name.
21 & 22	Print the names and social security numbers of all family members involved in this petition.
23	Print the number of children you and your spouse have together in this blank. The child has to be the biological or adopted child of BOTH you and your spouse.
24 & 25	Check "Yes" or "No" depending on whether there are any other Court cases regarding you, your spouse, or your children. For each case, you should describe what kind of case it is, name the Court that the case is in, and give the case number of the case (this number should appear in the top right-hand corner of any Court documents that you have relating to that case). Protective Orders are separate but related cases, so they must be listed here.
26	Sign your name.
28	Print your name.
30	Print your mailing address.
32	Print your town, state, and zip code.
34	Print your telephone number, with area code.

Instructions for filling out the Verified Petition for Dissolution of Marriage and Request for Provisional Orders (Form #2)

The instructions below correspond to the line numbers on the forms.

Check the box in the first column as you complete each line.

Line#	Instructions
1	Print the name of the county where you are filing the divorce.
3	Print the name of the county; leave the case number blank because the Clerk will assign a number.
7	Print your full name as Petitioner.
11	Print your spouse's full name as Respondent.
18	Print your full name.
20	Print the date, month, and year that you were married.
21	Print the month and year that you separated.
23	In the first blank, print the name of the person (either you or your spouse) who has lived in the county for the last three months. In the second blank, print the name of the county. It must be the same county where you will be filing your divorce.
25	Print the name of the person (either you or your spouse) who has lived in the state of Indiana for the last six months.
27	Print the number of children you and your spouse have.
31 - 33	Print the names and dates of birth for these children.
36	Print the name of the parent you want to have custody of the children.
41 & 43	Place an "X" in these boxes if there are debts or personal property to divide.
44 – 47	In each blank, print the specific debt or property along with the name of the spouse you feel should have the debt or property.
48	Print the name of the wife in this blank ONLY if she is not pregnant.
52	Place an "X" in this blank if the wife wants her former name restored.
53	Print the name the wife wishes to have after the divorce is final in this blank.
59 – 70	Place an "X" besides each order you would like the Judge to issue. You should contact an attorney or consult a legal dictionary if you do not understand these terms. A separate case is required for a Protective Order involving Domestic Violence, and you must file it as a separate case. If you are seeking a Protective Order, you may obtain a form from the Clerk of the Court or obtain it from the Indiana Judicial Center's website at http://www.in.gov/judiciary/forms/po.html .
76	Sign your name.
78	Print your name.

80	Print your mailing address.
82	Print your town, state, and zip code.
85	Print your telephone number, with area code.

Instructions for filling out the *Notice of Provisional Hearing* (Form #3)

Line#	Instructions
1	Print the name of the county where you are filing the divorce.
3	Print the name of the county; leave the case number blank because the Clerk will assign a number.
7	Print your full name as Petitioner.
12	Print your spouse's full name as Respondent.
18 – 23	These blanks will be filled out by the Court.
26 - 30	Print your full name, mailing address, town, state and zip code in the blanks provided.
33 - 37	Print the opposing side's mailing address, town, state and zip code in the blanks provided.

Instructions for filling out the Verified Motion for Fee Waiver and Order on Fee Waiver (Form #4)

The instructions below correspond to the line numbers on the forms.

Check the box in the first column as you complete each line. Use this form **ONLY** if you cannot afford to pay the required filing fee.

Line#	Instructions
1	Print the name of the county where you are filing the divorce.
3	Print the name of the county; leave the case number blank because the Clerk will assign a number.
6	Print your full name as Petitioner.
9	Print your spouse's full name as Respondent.
15	Print the family members who live with you.
16	Print the total from lines 18-24.
18-24	Print all your household's income on the blanks provided. For your income, use the amount of gross income or benefits received. Add up all your income and print that amount in the blank provided.
25	Print the amount of money you have in the bank.
26	Print the total from lines 28-37.
28-37	Print all the expenses that you have each month on the blanks provided. If you have expenses not listed on the form, put those amounts in the blank for OTHER .
42	Sign your name.
44	Print your name
46	Print your mailing address.
48	Print your town, state, and zip code.
51	Print the name of the county where you are filing the action.
53	Print the name of the county; leave the case number blank because the clerk will assign a number.
58	Print your full name as Petitioner.
62	Print your spouse's full name as Respondent.
66-83	Leave these lines blank.
85-89	Print your name and address on the left-hand side; print your spouse's name and address on the right-hand side.

Instructions for filling out the *Child Support Obligation Worksheet* (Form #5)

- 1. Fill out one Child Support Obligation Worksheet and include all children that you and the other party have together. You must fill out this worksheet as completely and correctly as you can.
- 2. You need to have Adobe Acrobat Reader to open, view, and print out the worksheet from the Indiana Self-Service Legal Center website. You may use a worksheet you obtained from another source.
- 3. The child support amount is calculated according to the parents' combined income and formulas established by the State of Indiana in the worksheet and guidelines.
- 4. Use a calculator and the guideline schedule for weekly support payments to fill out the worksheet. You should visit the Marion County website at www.indygov.org/cgibin/courts/support.cgi and use their child support calculator if you need assistance. You can find the Indiana guideline schedules for weekly child support payments at http://www.scican.net/~cburnham/court/supsched.htm. You can find general information about self-representation at the Indiana Supreme Court Pro Se Project's website at http://www.in.gov/judiciary/selfservice/index.html.
- 5. This packet does not assist you if a child that you and the other party have together is obtaining an education beyond high school. In such a case, you need to fill out and submit a Post-Secondary Education Worksheet to modify your child support obligation. College issues are extremely complicated.
- 6. Helpful definitions:
 - a) weekly gross income this means all income you make before taxes are taken out. Do not include any government assistance that you receive.
 - b) weekly adjusted income (WAI) this means your weekly gross income minus any child support and spousal maintenance payments that you make.
 - c) percentage share of total WAI this means your WAI divided by the total WAI.
 - d) basic child support obligation this means the amount you get from the guideline schedule for weekly support payments
 - e) parents' child support obligation this means the total child support obligation multiplied by the percentage share of total WAI



7. If you are not able to gather all of the required paperwork, that is an indication that you should obtain a lawyer.

Instructions for filling out the *Temporary Order* (Form #6)

Line#	Instructions
1	Print the name of the county where you are filing the divorce.
3	Print the name of the county; leave the case number blank because the Clerk will assign a number.
7	Print your full name as Petitioner.
12	Print your spouse's full name as Respondent.
18 – 83	These blanks will be filled out by the Court.
87 – 91	Print your full name, mailing address, town, state and zip code in the blanks provided.
95 – 99	Print the opposing side's mailing address, town, state and zip code in the blanks provided.

Instructions for filling out the Waiver of Final Hearing (Form #7)

Line #	Instructions
1	Print the name of the county where you are filing the divorce.
3	Print the name of the county; print the case number blank assigned by the clerk when filed.
7	Print your full name as Petitioner.
12	Print your spouse's full name as Respondent.
33 – 45 left-hand side	If you have read and agree to the terms as described in this form, sign your name, print your full name, your mailing address, your town, state and zip code, and your telephone number, with area code in the blanks provided on the left-hand side.
33 – 45 right-hand side	If your spouse has read and agrees to the terms as described in this form, have him/her sign their name, print their full name, their mailing address, their town, state and zip code, and their telephone number, with area code in the blanks provided on the right-hand side. DO NOT fill out any of these blanks for your spouse.

Instructions for filling out the Agreement of Settlement and Decree of Dissolution of Marriage (Form #8)

Line #	Instructions
1	Print the name of the county where you are filing the divorce.
3	Print the name of the county; leave the case number blank because the Clerk will assign a number.
7	Print your full name as Petitioner.
12	Print your spouse's full name as Respondent.
22	Print the date, month, and year that you were married.
23	Print the month and year that you separated.
25	In the first blank, print the name of the person (either you or your spouse) who has lived in the county for the last three months. In the second blank, print the name of the county. It must be the same county where you will be filing your divorce.
29	Print the name of the wife in this blank ONLY if she is not pregnant.
36 – 39	Print the names and dates of birth for these children.
43 – 73	Place an "X" by each blank that applies to you and your spouse's agreement. If you checked "Other", please describe in detail.
75	In the first blank, print the name of the spouse who will pay child support. In the second blank, print the amount of support that was obtained by completing the CHILD SUPPORT WORKSHEET (FORM #5 OF THIS PACKET).
78	Print the correct date.
79	Print the name of the parent without custody in the first blank. In the second blank, print the amount of money that the parent without custody will cover if medical expenses are uninsured.
81 & 82	Print the percentage of medical expenses that each parent will be responsible for if an amount is greater than the amount listed in line #79.
86 – 193	Place an "X" by each blank that applies to you and your spouse's agreement. Complete any blanks that require information.
201	Place an "X" in this blank if the wife wants her former name restored.
202	Print the name the wife wishes to have after the divorce is final in this blank.
204	Place an "X" in this blank if the wife does not want her previous name restored.
214 216	If you have read and agree to the terms as described in this form, sign your name and print your full name in front of a licensed notary public.

222 - 228	The notary public who witnessed your signature on lines 214 and 216 will fill out these blanks.
231 – 233	If your spouse has read and agrees to the terms as described in this form, have him/her sign their name and print their full name in front of a licensed notary public.
238 - 246	The notary public who witnessed your signature on lines 214 and 216 will fill out these blanks.
252 & 254	Leave these lines blank. The Judge will fill these blanks out.
262 – 271	If you have read and agree to the terms as described in this form, sign your name, print your full name, your mailing address, your town, state and zip code, and your telephone number, with area code in the blanks provided on the left-hand side.
262 – 271	If your spouse has read and agrees to the terms as described in this form, have him/her sign their name, print their full name, their mailing address, their town, state and zip code, and their telephone number, with area code in the blanks provided on the right-hand side. DO NOT fill out any of these blanks for your spouse.

Instructions for filling out the *Motion for Final Hearing* (Form #9)

The instructions below correspond to the line numbers on the forms.

Check the box in the first column as you complete each line.

Line #	Instructions
1	Print the name of the county where you are filing the divorce.
3	Print the name of the county; print the case number blank assigned by the clerk when filed.
7	Print your full name as Petitioner.
12	Print your spouse's full name as Respondent.
21	Sign your name.
23	Print your name.
25	Print your mailing address.
27	Print your town, state, and zip code.
29	Print your telephone number, with area code.
36	Print in the date that you will send the stamped copy of your forms to the opposing party or their attorney. This should be the same day you file your papers.
37	Sign your name when you mail a copy to the other side.

Instructions for filling out the *Notice of Final Hearing* (Form #10)

Line #	Instructions
1	Print the name of the county where you are filing the divorce .
3	Print the name of the county; print the case number assigned by the Clerk.
7	Print your full name as Petitioner.
12	Print your spouse's full name as Respondent.
20-27	Leave these lines blank.
30-34 left side	Print your full name, your mailing address, your town, state and zip code in the blanks provided on the left-hand side.
30 – 34 right side	Print your spouse's full name, their mailing address, their town, state and zip code in the blanks provided on the right-hand side. DO NOT fill out any of these blanks for your spouse.

Instructions for filling out the *Decree of Dissolution of Marriage* (Form #11)

Line #	Instructions
1	Print the name of the county where you are filing the divorce.
3	Print the name of the county; print the case number assigned by the Clerk.
7	Print your full name as Petitioner.
12	Print your spouse's full name as Respondent.
20	Print the date you were married.
21	Print the date you were separated.
22	In the first blank, print the name of the person (either you or your spouse) who has lived in the county for the last three months. In the second blank, print the name of the county. It must be the same county where you filed your divorce.
25	Print the name of the wife in this blank ONLY if she is not pregnant.
29 - 32	Print the names and dates of birth for these children.
35 – 147	Leave these lines blank. The Judge will fill this out if needed.
149 – 156 left side	If you have read and agree to the terms as described in this form, sign your name, print your full name, your mailing address, your town, state and zip code, and your telephone number, with area code in the blanks provided on the left-hand side.
149 – 156 right side	Print your spouse's full name, their mailing address, their town, state and zip code, and their telephone number, with area code in the blanks provided on the right-hand side.

Instructions for filling out the *Summons* **(Form #12)**

Line #	Instructions
1	Print the name of the county where you are filing the divorce.
3	Print the name of the county; print the case number assigned by the Clerk.
8	Print your full name as Petitioner.
11	Print your spouse's full name as Respondent.
15	Print your spouse's full name.
17	Print your spouse's street address.
19	Print your spouse's city, state and zip code.
33 & 34	Leave these lines blank. The Court will complete these blanks.
36-38	Check only one of these lines to designate how you wish for the paperwork to be served on your spouse. Discuss this with the Court Clerk.
39-40	If you chose to have the paperwork served on your spouse at their place of employment, provide the employer's name and address on these lines. (Include the city, state and zip code.)
42-73	Leave these lines blank.